

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

IN RE: GOLD KING MINE RELEASE
IN SAN JUAN COUNTY, COLORADO,
ON AUGUST 5, 2015

No. 1:18-md-02824-WJ

This Document Relates to All Cases

**MEMORANDUM OPINION AND ORDER
GRANTING MOTION FOR SUPPLEMENTAL BRIEFING**

THIS MATTER comes before the Court on the *Allen* Plaintiffs' Motion for Leave to File Supplemental Briefing Regarding Mining Defendants' Motions for Summary Judgment for Lack of Jurisdiction, Doc. 1051, filed January 22, 2021.

Sunnyside Gold Corporation ("SGC") and Kinross Gold USA/Kinross Gold Corporation ("Kinross Defendants") (collectively the "Mining Defendants") each filed a motion for summary judgment asserting the Court lacks personal jurisdiction over them. *See* Doc's 866 and 868, filed October 13, 2020. The *Allen* Plaintiffs filed their responses on November 30, 2020. *See* Doc's 942 and 943. On December 17, 2020, *after* the *Allen* Plaintiffs filed their responses, SGC filed motions for partial summary judgment on the nuisance claims and on statute of repose grounds. *See* Doc's 962 and 963.

The *Allen* Plaintiffs contend that "by filing the Motions for Partial Summary Judgment, SGC has waived the Mining Defendants' argument that personal jurisdiction is lacking over them" and move for leave to file supplemental briefing on the personal jurisdiction motions to address this issue. Motion at 2.

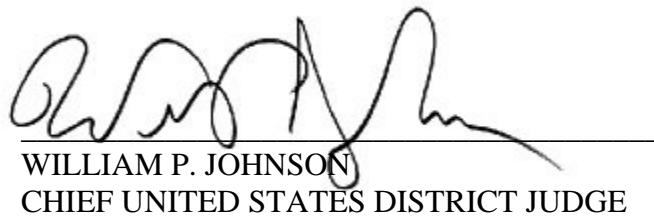
SGC opposes the *Allen* Plaintiffs' Motion for supplemental briefing stating that "SGC's mere compliance with this Court's case management orders and deadlines does not constitute a

manifestation of intent to submit to this Court's jurisdiction." SJC's Response at 2, Doc. 1084, filed February 5, 2021.

The Kinross Defendants also oppose the *Allen* Plaintiffs' Motion for supplemental briefing stating the *Allen* Plaintiffs' Motion "provides no support for the illogical assumption that any action by SGC, even if it somehow did constitute a waiver as to SGC, can be imputed to the Kinross Defendants to constitute a knowing and voluntary waiver of the Kinross Defendants' jurisdictional argument." Kinross Defendants' Response at 2, Doc. 1085, filed February 5, 2021.

The *Allen* Plaintiffs, SJC and the Kinross Defendants cited case law in support of their respective positions regarding waiver of a personal jurisdiction defense. The Court grants the Motion for supplemental briefing to allow the Parties to fully brief their arguments.

IT IS ORDERED that the *Allen* Plaintiffs' Motion for Leave to File Supplemental Briefing Regarding Mining Defendants' Motions for Summary Judgment for Lack of Jurisdiction, Doc. 1051, filed January 22, 2021, is **GRANTED**. The *Allen* Plaintiff's supplemental brief is due within 14 days of entry of this Order. Responses are due within 14 days of service of the supplemental brief. Replies are due within 14 days of service of the responses.



WILLIAM P. JOHNSON
CHIEF UNITED STATES DISTRICT JUDGE